

Senate File 2385 - Introduced

SENATE FILE _____
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3268)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for life settlement arrangements, providing
2 penalties, providing for fees, and providing an effective
3 date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5896SV 82
6 da/rj/24

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1 1 DIVISION I
1 2 LIFE SETTLEMENT CONTRACTS
1 3 Section 1. NEW SECTION. 508G.1 SHORT TITLE.
1 4 This chapter may be cited as the "Life Settlements Act".
1 5 Sec. 2. NEW SECTION. 508G.2 DEFINITIONS.
1 6 As used in this chapter, unless the context otherwise
1 7 requires:
1 8 1. "Advertisement" means any written, electronic, or
1 9 printed communication or any communication by means of
1 10 recorded telephone messages or transmitted on radio,
1 11 television, the internet, or similar communications media,
1 12 including film strips, motion pictures, and videos, published,
1 13 disseminated, circulated, or placed before the public,
1 14 directly or indirectly, for the purpose of creating an
1 15 interest in or inducing a person to purchase or sell, assign,
1 16 devise, bequest, or transfer the death benefit or ownership of
1 17 a life insurance policy or an interest in a life insurance
1 18 policy pursuant to a life settlement contract.
1 19 2. "Broker" means a person who, on behalf of an owner and
1 20 for a fee, commission or other valuable consideration, offers
1 21 or attempts to negotiate a life settlement contract between an
1 22 owner and a provider. A broker represents only the owner and
1 23 owes a fiduciary duty to the owner to act according to the
1 24 owner's instructions, and in the best interest of the owner,
1 25 notwithstanding the manner in which the broker is compensated.
1 26 A broker does not include an attorney, certified public
1 27 accountant, or financial planner retained in the type of
1 28 practice customarily performed in the attorney's,
1 29 accountant's, or planner's professional capacity to represent
1 30 the owner whose compensation is not paid directly or
1 31 indirectly by the provider or any other person, except the
1 32 owner.
1 33 3. "Business of life settlement" means an activity
1 34 involved in but not limited to offering to enter into,
1 35 soliciting, negotiating, procuring, effectuating, monitoring,
2 1 or tracking, of life settlement contracts.
2 2 4. "Chronically ill" means any of the following:
2 3 a. Being unable to perform at least two activities of
2 4 daily living such as eating, toileting, transferring, bathing,
2 5 dressing, or continence.
2 6 b. Requiring substantial supervision to protect the
2 7 individual from threats to health and safety due to severe
2 8 cognitive impairment.
2 9 c. Having a level of disability similar to that described
2 10 in paragraph "a" as determined by the United States secretary
2 11 of health and human services.
2 12 5. "Commissioner" means the commissioner of insurance.
2 13 6. a. "Financing entity" means a person who is an
2 14 underwriter, placement agent, lender, purchaser of securities,
2 15 purchaser of a policy or certificate from a provider, credit
2 16 enhancer, or any entity that has a direct ownership in a
2 17 policy or certificate that is the subject of a life settlement

2 18 contract, if all of the following apply:

2 19 (1) The person's principal activity related to the
2 20 transaction is providing funds to effect the life settlement
2 21 contract or purchase of one or more policies.

2 22 (2) The person has an agreement in writing with one or
2 23 more providers to finance the acquisition of one or more life
2 24 settlement contracts.

2 25 b. "Financing entity" does not include a nonaccredited
2 26 investor or purchaser.

2 27 7. "Financing transaction" means a transaction in which a
2 28 licensed provider obtains financing from a financing entity
2 29 including but not limited to any secured or unsecured
2 30 financing, any securitization transaction, or any securities
2 31 offering which either is registered or exempt from
2 32 registration under federal and state securities law, including
2 33 chapter 502.

2 34 8. "Fraudulent life settlement act" includes any of the
2 35 following:

3 1 a. An act or omission committed by a person who, knowingly
3 2 and with intent to defraud, for the purpose of depriving
3 3 another of property or for pecuniary gain, commits, or permits
3 4 its employees or its agents to engage in, an act including but
3 5 not limited to any of the following:

3 6 (1) Presenting, causing to be presented, or preparing with
3 7 knowledge and belief that it will be presented to or by a
3 8 provider, premium finance lender, broker, insurer, insurance
3 9 producer, or any other person, false material information, or
3 10 concealing material information, as part of, in support of, or
3 11 concerning a fact material to one or more of the following:

3 12 (a) An application for the issuance of a life settlement
3 13 contract or insurance policy.

3 14 (b) The underwriting of a life settlement contract or
3 15 insurance policy.

3 16 (c) A claim for payment or benefit pursuant to a life
3 17 settlement contract or life insurance policy.

3 18 (d) Premiums paid on a life insurance policy.

3 19 (e) Payments and changes in ownership or beneficiary made
3 20 in accordance with the terms of a life settlement contract or
3 21 life insurance policy.

3 22 (f) The reinstatement or conversion of a life insurance
3 23 policy.

3 24 (g) In the solicitation, offer to enter into, or
3 25 effectuation of a life settlement contract or life insurance
3 26 policy.

3 27 (h) The issuance of written evidence of a life settlement
3 28 contract or life insurance policy.

3 29 (i) Any application for or the existence of, or any
3 30 payments related to, a loan secured directly or indirectly by
3 31 any interest in a life insurance policy.

3 32 (j) Entering into any practice or plan which involves a
3 33 stranger-originated life insurance policy.

3 34 (2) Failing to disclose to the insurer where the request
3 35 for such disclosure has been asked for by the insurer that the
4 1 prospective insured has undergone a life expectancy evaluation
4 2 by any person or entity other than the insurer or its
4 3 authorized representatives in connection with the issuance of
4 4 the life insurance policy.

4 5 (3) Employing any device, scheme, or artifice to defraud
4 6 in the business of life settlements.

4 7 (4) In the solicitation, application or issuance of a life
4 8 insurance policy, employing any device, scheme or artifice in
4 9 violation of state insurable interest laws.

4 10 b. In the furtherance of a fraud, or to prevent the
4 11 detection of a fraud, a person commits or permits its employee
4 12 or its agent to do any of the following:

4 13 (1) Remove, conceal, alter, destroy, or sequester from the
4 14 commissioner the assets or records of a licensee or other
4 15 person engaged in the business of life settlements.

4 16 (2) Misrepresent or conceal the financial condition of a
4 17 licensee, financing entity, insurer, or other person.

4 18 (3) Transact the business of life settlements in violation
4 19 of laws requiring a license, certificate of authority, or
4 20 other legal authority for the transaction of the business of
4 21 life settlements.

4 22 (4) File with the commissioner or the chief insurance
4 23 regulatory official of another jurisdiction a document
4 24 containing false information or otherwise concealing
4 25 information about a material fact from the commissioner.

4 26 (5) Engage in embezzlement, theft, misappropriation, or
4 27 conversion of moneys, funds, premiums, credits, or other

4 28 property of a provider, broker insurer, insured, owner, or any

4 29 other person engaged in the business of life settlement
4 30 contracts or insurance policy.

4 31 (6) Knowingly and with intent to defraud, enter into,
4 32 broker, or otherwise deal in a life settlement contract, the
4 33 subject of which is a life insurance policy that was obtained
4 34 by presenting false information concerning any fact material
4 35 to the life insurance policy or by concealing, for the purpose
5 1 of misleading another, information concerning any fact
5 2 material to the life insurance policy, where the owner or the
5 3 owner's agent intended to defraud the life insurance policy's
5 4 issuer.

5 5 (7) Attempt to commit, assist, aid, or abet in the
5 6 commission of, or conspiracy to commit an act or omission
5 7 specified in this subsection.

5 8 (8) Misrepresent the state of residence of an owner to be
5 9 a state or jurisdiction that does not have a law substantially
5 10 similar to this chapter for the purpose of evading or avoiding
5 11 the provisions of this chapter.

5 12 9. "Insured" means the person covered under the life
5 13 insurance policy being considered for sale in a life
5 14 settlement contract.

5 15 10. "Life expectancy" means the arithmetic mean of the
5 16 number of months the insured under the life insurance policy
5 17 to be settled can be expected to live as determined by a life
5 18 expectancy company considering medical records and appropriate
5 19 experiential data.

5 20 11. "Life insurance policy" means an individual or group
5 21 policy, group certificate, contract, or arrangement of life
5 22 insurance owned by a resident of this state, regardless of
5 23 whether delivered or issued for delivery in this state.

5 24 12. "Life insurance producer" or "producer" means any
5 25 person licensed in this state as a resident or nonresident
5 26 insurance producer who has received qualification or authority
5 27 for life insurance coverage or a life line of coverage
5 28 pursuant to title XIII, subtitle I of the Code.

5 29 13. a. "Life settlement contract" means a written
5 30 agreement entered into between a provider and an owner,
5 31 establishing the terms under which compensation or anything of
5 32 value will be paid, which compensation or thing of value is
5 33 less than the expected death benefit of the life insurance
5 34 policy or life insurance certificate, in return for the
5 35 owner's assignment, transfer, sale, devise, or bequest of the
6 1 death benefit or any portion of a life insurance policy or
6 2 life insurance certificate for compensation, provided,
6 3 however, that the minimum value for a life settlement contract
6 4 shall be greater than a cash surrender value or accelerated
6 5 death benefit available at the time of an application for a
6 6 life settlement contract.

6 7 b. "Life settlement contract" also includes the transfer
6 8 for compensation or value of ownership or beneficial interest
6 9 in a trust or other entity that owns such policy if the trust
6 10 or other entity was formed or availed of for the principal
6 11 purpose of acquiring one or more life insurance contracts,
6 12 which life insurance contract insures the life of a person
6 13 residing in this state.

6 14 c. "Life settlement contract" also includes any of the
6 15 following:

6 16 (1) A written agreement for a loan or other lending
6 17 transaction, secured primarily by an individual or group life
6 18 insurance policy.

6 19 (2) A premium finance loan made for a life insurance
6 20 policy on or before the date of issuance of the life insurance
6 21 policy where any of the following applies:

6 22 (a) The loan proceeds are not used solely to pay premiums
6 23 for the life insurance policy and any costs or expenses
6 24 incurred by the lender or the borrower in connection with the
6 25 financing.

6 26 (b) The owner receives on the date of the premium finance
6 27 loan a guarantee of the future life settlement value of the
6 28 life insurance policy.

6 29 (c) The owner agrees on the date of the premium finance
6 30 loan to sell the life insurance policy or any portion of its
6 31 death benefit on any date following the issuance of the life
6 32 insurance policy.

6 33 d. "Life settlement contract" does not include any of the
6 34 following:

6 35 (1) A life insurance policy loan by a life insurance
7 1 company pursuant to the terms of the life insurance policy or
7 2 accelerated death provisions contained in the life insurance
7 3 policy, whether issued with the original life insurance policy
7 4 or as a rider.

7 5 (2) A premium finance loan or any loan made by a bank or
7 6 other licensed financial institution, provided that a default
7 7 on such loan or a transfer of the life insurance policy in
7 8 connection with such default is pursuant to an agreement or
7 9 understanding with any other person for the purpose of evading
7 10 regulation under this chapter.

7 11 (3) A collateral assignment of a life insurance policy by
7 12 an owner.

7 13 (4) A loan made by a lender, provided such loan is not
7 14 described in paragraph "c", and is not otherwise a life
7 15 settlement contract.

7 16 (5) An agreement where all the parties (a) are closely
7 17 related to the insured by blood or law or (b) have a lawful
7 18 substantial economic interest in the continued life, health,
7 19 and bodily safety of the person insured, or are trusts
7 20 established primarily for the benefit of such parties.

7 21 (6) Any designation, consent, or agreement by an insured
7 22 who is an employee of an employer in connection with the
7 23 purchase by the employer, or trust established by the
7 24 employer, of life insurance on the life of the employee.

7 25 (7) A bona fide business succession planning arrangement
7 26 that is between any of the following:

7 27 (a) One or more shareholders in a corporation or between a
7 28 corporation and one or more of its shareholders or one or more
7 29 trusts established by its shareholders.

7 30 (b) One or more partners in a partnership or between a
7 31 partnership and one or more of its partners or one or more
7 32 trusts established by its partners.

7 33 (c) One or more members in a limited liability company or
7 34 between a limited liability company and one or more of its
7 35 members or one or more trusts established by its members.

8 1 (8) An agreement entered into by a service recipient, or a
8 2 trust established by the service recipient, and a service
8 3 provider, or a trust established by the service provider, who
8 4 performs significant services for the service recipient's
8 5 trade or business.

8 6 (9) Any other contract, transaction, or arrangement that
8 7 qualifies as a life settlement contract but that the
8 8 commissioner determines is not of the type intended to be
8 9 regulated by this chapter.

8 10 14. "Net death benefit" means the amount of the life
8 11 insurance policy or life insurance certificate to be settled
8 12 less any outstanding debts or liens.

8 13 15. "Owner" means the owner of a life insurance policy or
8 14 a life insurance certificate holder under a group policy, with
8 15 or without a terminal illness, who enters or seeks to enter
8 16 into a life settlement contract.

8 17 a. "Owner" includes but is not limited to an owner of a
8 18 life insurance policy or a life insurance certificate holder
8 19 under a group policy that insures the life of an individual
8 20 with a terminal or chronic illness or condition.

8 21 b. "Owner" does not include any of the following:

8 22 (1) A provider or other licensee under this chapter.

8 23 (2) A qualified institutional buyer as defined in 17
8 24 C.F.R. } 230.144 promulgated by the United States securities
8 25 and exchange commission under the federal Securities Act of
8 26 1933, as amended, 15 U.S.C. } 77a et seq.

8 27 (3) A financing entity.

8 28 (4) A special purpose entity.

8 29 (5) A related provider trust.

8 30 16. "Premium finance loan" means a loan made primarily for
8 31 the purposes of making premium payments on a life insurance
8 32 policy, which loan is secured by an interest in such life
8 33 insurance policy.

8 34 17. a. "Provider" means a person, other than an owner,
8 35 who enters into or effectuates a life settlement contract with
9 1 an owner.

9 2 b. "Provider" does not include any of the following:

9 3 (1) A bank, savings bank, savings and loan association, or
9 4 credit union.

9 5 (2) A licensed lending institution or creditor or secured
9 6 party pursuant to a premium finance loan agreement which takes
9 7 an assignment of a life insurance policy or certificate issued
9 8 pursuant to a group life insurance policy as collateral for a
9 9 loan.

9 10 (3) The insurer of a life insurance policy or rider to the
9 11 extent of providing accelerated death benefits, riders, or
9 12 cash surrender value.

9 13 (4) A natural person who enters into or effectuates not
9 14 more than one agreement in a calendar year for the transfer of
9 15 a life insurance policy or certificate issued pursuant to a

9 16 group life insurance policy, for compensation or anything of
9 17 value less than the expected death benefit payable under the
9 18 policy.
9 19 (5) A purchaser.
9 20 (6) An authorized or eligible insurer that provides stop
9 21 loss coverage to a provider, purchaser, financing entity,
9 22 special purpose entity, or related provider trust.
9 23 (7) A financing entity.
9 24 (8) A special purpose entity.
9 25 (9) A related provider trust.
9 26 (10) A broker.
9 27 (11) An accredited investor or qualified institutional
9 28 buyer as defined, respectively, in 17 C.F.R. } 230.501(a) or
9 29 17 C.F.R. } 230.144A as promulgated by the United States
9 30 securities and exchange commission under the federal
9 31 Securities Act of 1933, as amended, 15 U.S.C. } 77a et seq.,
9 32 who purchases a life settlement policy from a provider.
9 33 18. "Purchased policy" means a policy or group certificate
9 34 that has been acquired by a provider pursuant to a life
9 35 settlement contract.
10 1 19. "Purchaser" means a person who pays compensation or
10 2 anything of value as consideration for a beneficial interest
10 3 in a trust which is vested with, or for the assignment,
10 4 transfer or sale of, an ownership or other interest in a life
10 5 insurance policy or a certificate issued pursuant to a group
10 6 life insurance policy which has been the subject of a life
10 7 settlement contract.
10 8 20. a. "Related provider trust" means a titling trust or
10 9 other trust established by a licensed provider or a financing
10 10 entity for the sole purpose of holding the ownership or
10 11 beneficial interest in purchased policies in connection with a
10 12 financing transaction.
10 13 b. In order to qualify as a related provider trust, the
10 14 trust must have a written agreement with the licensed provider
10 15 under which the licensed provider is responsible for ensuring
10 16 compliance with all statutory and regulatory requirements and
10 17 under which the trust agrees to make all records and files
10 18 relating to life settlement transactions available to the
10 19 commissioner as if those records and files were maintained
10 20 directly by the licensed provider.
10 21 21. "Settled policy" means a life insurance policy or life
10 22 insurance certificate that has been acquired by a provider
10 23 pursuant to a life settlement contract.
10 24 22. "Special purpose entity" means a corporation,
10 25 partnership, trust, limited liability company, or other legal
10 26 entity formed solely to provide, either directly or
10 27 indirectly, access to institutional capital markets as
10 28 follows:
10 29 a. For a financing entity or provider.
10 30 b. In connection with a transaction in which the
10 31 securities in the special purpose entity are acquired by the
10 32 owner or by a qualified institutional buyer as defined in 17
10 33 C.F.R. } 230.144 promulgated by the United States securities
10 34 and exchange commission under the federal Securities Act of
10 35 1933, as amended, 15 U.S.C. } 77a et seq.
11 1 c. In connection with a transaction in which the
11 2 securities pay a fixed rate of return commensurate with
11 3 established asset-backed institutional capital markets.
11 4 23. "Stranger-originated life insurance" means a practice
11 5 or plan to initiate a life insurance policy for the benefit of
11 6 a third-party investor who, at the time of policy origination,
11 7 has no insurable interest in the insured. Stranger-originated
11 8 life insurance practices include but are not limited to cases
11 9 in which life insurance is purchased with resources or
11 10 guarantees from or through a person, or entity, who at the
11 11 time of inception, there is an arrangement or agreement,
11 12 whether verbal or written, to directly or indirectly transfer
11 13 the ownership of the policy or the policy benefits to a third
11 14 party. Trusts that are created to give the appearance of
11 15 insurable interest and are used to initiate
11 16 stranger-originated life insurance arrangements do not include
11 17 those practices as set forth in subsection 13, paragraph "b".
11 18 24. "Terminally ill" means having an illness or sickness
11 19 that can reasonably be expected to result in death in
11 20 twenty-four months or less.
11 21 Sec. 3. NEW SECTION. 508G.3 LICENSING REQUIREMENTS.
11 22 1. A person, wherever located, shall not act as a provider
11 23 or broker with an owner or multiple owners residing in this
11 24 state, without first having obtained a license from the
11 25 commissioner. If there is more than one owner on a single
11 26 policy and the owners are residents of different states, the

11 27 life settlement contract shall be governed by the law of the
11 28 state in which the owner having the largest percentage
11 29 ownership resides or, if the owners hold equal ownership, the
11 30 state of residence of one owner agreed upon in writing by all
11 31 owners.

11 32 2. An application for a provider or broker license shall
11 33 be made to the commissioner by the applicant on a form
11 34 prescribed by the commissioner, and the application shall be
11 35 accompanied by a fee in an amount established by the
12 1 commissioner, provided, however, that a license or renewal fee
12 2 for a provider license shall be reasonable and that a license
12 3 or renewal fee for a broker license shall not exceed the fee
12 4 established for an insurance producer.

12 5 3. A life insurance producer who has been duly licensed as
12 6 a resident insurance producer with a life line of authority in
12 7 this state or in the life insurance producer's home state for
12 8 at least one year and is licensed as a nonresident producer in
12 9 this state shall be deemed to meet the licensing requirements
12 10 of this section and shall be permitted to operate as a broker.

12 11 4. Not later than thirty days from the first day of
12 12 operating as a broker, the life insurance producer shall
12 13 notify the commissioner that the life insurance producer is
12 14 acting as a broker on a form prescribed by the commissioner,
12 15 and shall pay an applicable fee established by rules adopted
12 16 by the commissioner. Notification shall include an
12 17 acknowledgment by the life insurance producer that the life
12 18 insurance producer will operate as a broker in accordance with
12 19 this chapter.

12 20 5. The insurer that issued the life insurance policy that
12 21 is the subject of a life settlement contract shall not be
12 22 responsible for any act or omission of a broker, provider, or
12 23 purchaser arising out of or in connection with the life
12 24 settlement transaction, unless the insurer receives
12 25 compensation for the placement of a life settlement contract
12 26 from the broker, provider, or purchaser in connection with the
12 27 life settlement contract.

12 28 6. A person licensed as an attorney, certified public
12 29 accountant, or financial planner accredited by a nationally
12 30 recognized accreditation agency, who is retained to represent
12 31 the owner, whose compensation is not paid directly or
12 32 indirectly by the provider or purchaser, may negotiate life
12 33 settlement contracts on behalf of the owner without having to
12 34 obtain a license as a broker.

12 35 7. The term of a provider license shall be equal to that
13 1 of a domestic stock life insurance company and the term of a
13 2 broker license shall be equal to that of an insurance producer
13 3 license. A license requiring periodic renewal may be renewed
13 4 on its anniversary date upon payment of the periodic renewal
13 5 fee as specified in subsection 2. A failure to pay a fee on
13 6 or before the renewal date shall result in revocation of the
13 7 license.

13 8 8. The applicant shall provide such information as the
13 9 commissioner may require on forms prepared by the
13 10 commissioner. The commissioner may, at any time, require such
13 11 applicant to fully disclose the identity of its stockholders
13 12 except for a stockholder owning fewer than ten percent of the
13 13 shares of an applicant whose shares are publicly traded;
13 14 partners; officers; and employees. The commissioner may, in
13 15 the exercise of the commissioner's sole discretion, refuse to
13 16 issue such a license in the name of any person if not
13 17 satisfied that any officer, employee, stockholder, or partner
13 18 of the applicant who may materially influence the applicant's
13 19 conduct meets the standards of this chapter.

13 20 9. A license issued to a partnership, corporation, limited
13 21 liability company, or other entity authorizes a person who is
13 22 a member, officer, or designated employee to act as a licensee
13 23 under the license, if the person is named in the application
13 24 or a supplement to the application.

13 25 10. Upon the filing of an application and the payment of
13 26 the license fee, the commissioner shall make an investigation
13 27 of each applicant and may issue a license if the commissioner
13 28 finds that all of the following apply:

13 29 a. If the applicant is a provider, the applicant has
13 30 provided a detailed plan of operation.

13 31 b. The applicant is competent and trustworthy and intends
13 32 to transact its business in good faith.

13 33 c. The applicant has a good business reputation and has
13 34 had experience, training, or education so as to be qualified
13 35 in the business for which the license is applied.

14 1 d. If the applicant is a legal entity, is formed or
14 2 organized pursuant to the laws of this state or is a foreign

14 3 legal entity authorized to transact business in this state, or
14 4 provides a certificate of good standing from the state of its
14 5 domicile.

14 6 e. The applicant has provided to the commissioner an
14 7 antifraud plan that meets the requirements of section 508G.14
14 8 and includes all of the following:

14 9 (1) A description of the procedures for detecting and
14 10 investigating a possible fraudulent act and procedure for
14 11 resolving material inconsistencies between a medical record
14 12 and insurance applications.

14 13 (2) A description of the procedures for reporting a
14 14 fraudulent insurance act to the commissioner.

14 15 (3) A description of the plan for antifraud education and
14 16 training of its underwriters and other personnel.

14 17 (4) A written description or chart outlining the
14 18 arrangement of the antifraud personnel who are responsible for
14 19 the investigation and reporting of a possible fraudulent
14 20 insurance act and investigating any unresolved material
14 21 inconsistency between a medical record and the insurance
14 22 application.

14 23 11. The commissioner shall not issue a license to a
14 24 nonresident applicant, unless a written designation of an
14 25 agent for service of process is filed and maintained with the
14 26 commissioner or unless the applicant has filed with the
14 27 commissioner the applicant's written irrevocable consent that
14 28 any action against the applicant may be commenced against the
14 29 applicant by service of process on the commissioner.

14 30 12. A licensee shall file with the commissioner on or
14 31 before the first day of March of each year an annual statement
14 32 containing such information as the commissioner by rule may
14 33 prescribe.

14 34 13. A provider shall not use any person to perform the
14 35 functions of a broker unless the person holds a license as a
15 1 broker as provided in this section.

15 2 14. A broker shall not use a person to perform the
15 3 functions of a provider unless such person holds a license as
15 4 a provider as provided in this section.

15 5 15. A provider or broker shall provide to the commissioner
15 6 new or revised information about an officer, ten percent or
15 7 more stockholders, a partner, director, members, or a
15 8 designated employee within thirty days of a change.

15 9 16. An individual licensed as a broker shall complete on a
15 10 biennial basis fifteen hours of training related to a life
15 11 settlement or a life settlement transaction, as required by
15 12 the commissioner. However, a life insurance producer who is
15 13 operating as a broker pursuant to this section shall not be
15 14 subject to the requirements of this subsection. A person
15 15 failing to meet the requirements of this subsection shall be
15 16 subject to the penalties imposed by the commissioner.

15 17 Sec. 4. NEW SECTION. 508G.4 LICENSE SUSPENSION,
15 18 REVOCATION, OR REFUSAL TO RENEW.

15 19 1. The commissioner may suspend, revoke, or refuse to
15 20 renew the license of a licensee if the commissioner finds any
15 21 of the following:

15 22 a. There was any material misrepresentation in the
15 23 application for the license.

15 24 b. The licensee or any officer, partner, member, or
15 25 director has been guilty of a fraudulent or dishonest
15 26 practice, is subject to a final agency action under chapter
15 27 17A, or is otherwise shown to be untrustworthy or incompetent
15 28 to act as a licensee.

15 29 c. The provider demonstrates a pattern of unreasonably
15 30 withholding payments to policy owners.

15 31 d. The licensee no longer meets the requirements for
15 32 initial licensure.

15 33 e. The licensee or any officer, partner, member, or
15 34 director has been convicted of a felony, or of any misdemeanor
15 35 of which criminal fraud or moral turpitude is an element; or
16 1 the licensee has pleaded guilty or nolo contendere with
16 2 respect to any felony or any misdemeanor of which criminal
16 3 fraud or moral turpitude is an element, regardless of whether
16 4 a judgment of conviction has been entered by the court.

16 5 f. The provider has entered into a life settlement
16 6 contract that has not been approved pursuant to this chapter.

16 7 g. The provider has failed to honor contractual
16 8 obligations set out in a life settlement contract.

16 9 h. The provider has assigned, transferred, or pledged a
16 10 settled policy to a person other than a provider licensed in
16 11 this state; a purchaser; an accredited investor or qualified
16 12 institutional buyer as defined, respectively, in 17 C.F.R. }
16 13 230.501(a) or 17 C.F.R. } 230.144A as promulgated by the

16 14 United States securities and exchange commission under the
16 15 federal Securities Act of 1933, as amended, 15 U.S.C. } 77a et
16 16 seq.; a financing entity; a special purpose entity; or a
16 17 related provider trust.

16 18 i. The licensee or any officer, partner, member, or key
16 19 management personnel has violated any of the provisions of
16 20 this chapter.

16 21 2. Before the commissioner denies a license application or
16 22 suspends, revokes, or refuses to renew the license of any
16 23 licensee under this chapter, the commissioner shall conduct a
16 24 contested case proceeding in accordance with chapter 17A.

16 25 Sec. 5. NEW SECTION. 508G.5 CONTRACT REQUIREMENTS.

16 26 1. A person shall not use any form of life settlement
16 27 contract in this state unless it has been filed with and
16 28 approved, if required, by the commissioner in a manner that
16 29 conforms with the filing procedures and any time restrictions
16 30 or deeming provisions, if any, for life insurance forms,
16 31 policies, and contracts.

16 32 2. An insurer shall not, as a condition of responding to a
16 33 request for verification of coverage or in connection with the
16 34 transfer of a life insurance policy pursuant to a life
16 35 settlement contract, require that the owner, insured provider,
17 1 or broker sign any form, disclosure, consent, waiver, or
17 2 acknowledgment that has not been expressly approved by the
17 3 commissioner for use in connection with life settlement
17 4 contracts in this state.

17 5 3. A person shall not use a life settlement contract form
17 6 or provide to an owner a disclosure statement form in this
17 7 state unless first filed with and approved by the
17 8 commissioner. The commissioner shall disapprove a life
17 9 settlement contract form or disclosure statement form if, in
17 10 the commissioner's opinion, the contract or provisions
17 11 contained in such form fail to meet the requirements of
17 12 sections 508G.8, 508G.9, or 508G.11, or are unreasonable,
17 13 contrary to the interests of the public, or otherwise
17 14 misleading or unfair to the owner. At the commissioner's
17 15 discretion, the commissioner may require the submission of
17 16 advertising material.

17 17 Sec. 6. NEW SECTION. 508G.6 REPORTING REQUIREMENTS AND
17 18 PRIVACY.

17 19 1. For any life insurance policy settled within five years
17 20 of policy issuance, each provider shall file with the
17 21 commissioner on or before March 1 of each year an annual
17 22 statement containing such information as the commissioner may
17 23 prescribe by rule. In addition to any other requirements, the
17 24 annual statement shall specify the total number, aggregate
17 25 face amount, and life settlement proceeds of life insurance
17 26 policies settled during the immediately preceding calendar
17 27 year, together with a breakdown of the information by policy
17 28 issue year for each insurer. The annual statement shall also
17 29 include the names of the insurance companies whose policies
17 30 have been settled and the brokers that have settled the
17 31 policies.

17 32 a. Such information shall be limited to only those
17 33 transactions where the insured is a resident of this state and
17 34 shall not include individual transaction data regarding the
17 35 business of life settlements or information that there is a
18 1 reasonable basis to believe could be used to identify the
18 2 owner or the insured.

18 3 b. A provider that willfully fails to file an annual
18 4 statement as required in this section, or willfully fails to
18 5 reply within thirty days to a written inquiry by the
18 6 commissioner in connection to the filing of the annual
18 7 statement, shall, in addition to other penalties provided by
18 8 this chapter, be subject to a civil penalty of up to two
18 9 hundred fifty dollars per day of delay, not to exceed
18 10 twenty-five thousand dollars in the aggregate, for each such
18 11 failure.

18 12 2. A provider, broker, insurer, insurance producer,
18 13 information bureau, rating agency, or company, or any other
18 14 person with actual knowledge of an insured's identity, shall
18 15 not disclose the identity of an insured or information that
18 16 there is a reasonable basis to believe could be used to
18 17 identify the insured or the insured's financial or medical
18 18 information to any other person unless the disclosure is any
18 19 of the following:

18 20 a. Necessary to effect a life settlement contract between
18 21 the owner and a provider and the owner and insured have
18 22 provided prior written consent to the disclosure.

18 23 b. Necessary to effectuate the sale of life settlement
18 24 contracts, or interest in a life insurance contract as an

18 25 investment, provided the sale is conducted in accordance with
18 26 applicable federal securities law, including chapter 502, and
18 27 provided further that the owner and the insured have both
18 28 provided prior written consent to the disclosure.

18 29 c. Is provided in response to an investigation or
18 30 examination by the commissioner or any other governmental
18 31 officer or agency or pursuant to the requirements of section
18 32 508G.13.

18 33 d. Is a term or condition to the transfer of a policy by
18 34 one provider to another provider, in which case the receiving
18 35 provider shall be required to otherwise comply with the
19 1 confidentiality requirements of this subsection.

19 2 e. (1) Is necessary to allow the provider or broker or
19 3 its authorized representatives to make a contact for the
19 4 purpose of determining health status. A provider or broker
19 5 shall require its authorized representative to agree in
19 6 writing to adhere to the privacy provisions of this chapter.

19 7 (2) An authorized representative does not include any
19 8 person who has or may have any financial interest in the life
19 9 settlement contract other than a provider, licensed broker,
19 10 financing entity, related provider trust, or special purpose
19 11 entity.

19 12 f. Is required to purchase stop loss coverage.

19 13 3. Nonpublic personal information solicited or obtained in
19 14 connection with a proposed or actual life settlement contract
19 15 shall be subject to the provisions applicable to financial
19 16 institutions under the federal Gramm Leach Bliley Act, 15
19 17 U.S.C. } 6801 et seq., and all other federal and state laws
19 18 relating to confidentiality of nonpublic personal information.

19 19 Sec. 7. NEW SECTION. 508G.7 EXAMINATION.

19 20 1. The commissioner may, when the commissioner deems it
19 21 reasonably necessary to protect the interests of the public,
19 22 examine the business and affairs of any licensee or applicant
19 23 for a license. The commissioner may order any licensee or
19 24 applicant to produce any records, books, files, or other
19 25 information reasonably necessary to ascertain whether such
19 26 licensee or applicant is acting or has acted in violation of
19 27 the law or otherwise contrary to the interests of the public.
19 28 The expenses incurred in conducting any examination shall be
19 29 paid by the licensee or applicant.

19 30 2. In lieu of an examination under this section of any
19 31 foreign or alien licensee licensed in this state, the
19 32 commissioner may, at the commissioner's discretion, accept an
19 33 examination report on the licensee as prepared by the
19 34 commissioner for the licensee's state of domicile or
19 35 port-of-entry state.

20 1 3. Notwithstanding chapter 22, the name and individual
20 2 identification data for each owner and insured shall be
20 3 considered private and confidential information and shall not
20 4 be disclosed by the commissioner unless required by law.

20 5 4. The records of all consummated transactions and life
20 6 settlement contracts shall be maintained by the provider for
20 7 three years after the death of the insured and shall be
20 8 available to the commissioner for inspection during reasonable
20 9 business hours.

20 10 5. For the conduct of examinations, all of the following
20 11 shall apply:

20 12 a. Upon determining that an examination is appropriate,
20 13 the commissioner shall issue an examination warrant appointing
20 14 one or more examiners to perform the examination and
20 15 instructing them as to the scope of the examination. In
20 16 conducting the examination, an examiner shall use methods
20 17 common to the examination of any life settlement licensee and
20 18 may use those guidelines and procedures set forth in an
20 19 examiners' handbook adopted by a national organization as
20 20 required by the commissioner.

20 21 b. A licensee or other person from whom information is
20 22 sought, its officers, directors, or agents shall provide to an
20 23 examiner timely, convenient, and free access at all reasonable
20 24 hours at its office to all books, records, accounts, papers,
20 25 documents, assets, and computer or other recordings relating
20 26 to the property, assets, business, and affairs of the licensee
20 27 or other person being examined. The officer, director,
20 28 employee, or agent of the licensee or other person shall
20 29 facilitate the examination and aid in the examination so far
20 30 as it is in the person's power to do so. The refusal of a
20 31 licensee, by an officer, director, employee, or agent, to
20 32 submit to examination or to comply with any reasonable written
20 33 request of the commissioner shall be grounds for suspension or
20 34 refusal of, or nonrenewal of any license or authority held by
20 35 the licensee to engage in the business of life settlements or

21 1 other business subject to the commissioner's jurisdiction.
21 2 Any proceedings for suspension, revocation, or refusal of a
21 3 license or authority shall be conducted pursuant to chapter
21 4 17A.

21 5 c. The commissioner may issue subpoenas, administer oaths,
21 6 and examine under oath any person as to any matter pertinent
21 7 to the examination. Upon the failure or refusal of a person
21 8 to obey a subpoena, the commissioner may petition a court of
21 9 competent jurisdiction, and upon proper showing, the court may
21 10 enter an order compelling the witness to appear and testify or
21 11 produce documentary evidence.

21 12 d. When making an examination under this chapter, the
21 13 commissioner may retain one or more attorneys, appraisers,
21 14 independent actuaries, independent certified public
21 15 accountants, or other professionals and specialists as
21 16 examiners, the reasonable cost of which shall be borne by the
21 17 licensee that is the subject of the examination.

21 18 e. This chapter shall not be construed to limit the
21 19 commissioner's authority to terminate or suspend an
21 20 examination in order to pursue other legal or administrative
21 21 action pursuant to the insurance laws of this state. Findings
21 22 of fact and conclusions made pursuant to any examination shall
21 23 be prima facie evidence in any legal or regulatory action.

21 24 f. This chapter shall not be construed to limit the
21 25 commissioner's authority to use and, if appropriate, to make
21 26 public any final or preliminary examination report, any
21 27 examiner or licensee work papers or other documents, or any
21 28 other information discovered or developed during the course of
21 29 any examination in the furtherance of any legal or
21 30 administrative action which the commissioner may, in the
21 31 commissioner's sole discretion, deem appropriate.

21 32 6. For the examination report, all of the following apply:

21 33 a. An examination report shall be comprised of only facts
21 34 appearing upon the books, from the testimony of its officers
21 35 or agents or other persons examined concerning its affairs,
22 1 and such conclusions and recommendations as the examiners find
22 2 reasonably warranted from the facts.

22 3 b. Not later than sixty days following completion of the
22 4 examination, the examiner in charge shall file with the
22 5 commissioner a verified written report of examination under
22 6 oath. Upon receipt of the verified report, the commissioner
22 7 shall transmit the report to the licensee examined, together
22 8 with a notice that shall afford the licensee examined a
22 9 reasonable opportunity of not more than thirty days to make a
22 10 written submission or rebuttal with respect to any matter
22 11 contained in the examination report and which shall become
22 12 part of the report or to request an administrative hearing on
22 13 any matter in dispute as provided in chapter 17A.

22 14 c. In the event the commissioner determines that
22 15 regulatory action is appropriate as a result of an
22 16 examination, the commissioner may initiate any proceeding or
22 17 action provided by law.

22 18 7. For the confidentiality of examination information, all
22 19 of the following apply:

22 20 a. The name and individual identification data for each
22 21 owner, purchaser, or insured shall be considered private and
22 22 confidential information and shall not be disclosed by the
22 23 commissioner, unless the disclosure is to another regulator or
22 24 is required by law.

22 25 b. Except as otherwise provided in this chapter, an
22 26 examination report, working papers, recorded information,
22 27 documents or materials, and copies produced by, obtained by,
22 28 or disclosed to the commissioner or any other person in the
22 29 course of an examination made under this chapter, or in the
22 30 course of analysis or investigation by the commissioner of the
22 31 financial condition or market conduct of a licensee shall be
22 32 confidential by law and privileged, shall not be subject to
22 33 chapter 22, shall not be subject to subpoena, and shall not be
22 34 subject to discovery or admissible in evidence in any private
22 35 civil action. The commissioner may use the examination
23 1 report, working papers, recorded information, documents,
23 2 materials, or other information in the furtherance of any
23 3 administrative or legal action brought as part of the
23 4 commissioner's official duties. The licensee being examined
23 5 may have access to all documents used to make the report.

23 6 8. For conflict of interest, all of the following apply:

23 7 a. An examiner shall not be appointed by the commissioner
23 8 if the examiner, either directly or indirectly, has a conflict
23 9 of interest or is affiliated with the management of or owns a
23 10 pecuniary interest in any person subject to examination under
23 11 this chapter. This section shall not be construed to

23 12 automatically preclude an examiner from being any of the
23 13 following:

- 23 14 (1) An owner.
- 23 15 (2) An insured in a life settlement contract or life
23 16 insurance policy.
- 23 17 (3) A beneficiary in a life insurance policy that is
23 18 proposed for a life settlement contract.

23 19 b. Notwithstanding the requirements of this subsection,
23 20 the commissioner may retain from time to time, on an
23 21 individual basis, one or more qualified actuaries, certified
23 22 public accountants, or other similar individuals who are
23 23 independently practicing their professions, even though these
23 24 persons may from time to time be similarly employed or
23 25 retained by persons subject to examination under this chapter.

23 26 9. For immunity from liability, all of the following shall
23 27 apply:

23 28 a. A cause of action shall not arise and liability shall
23 29 not be imposed against the commissioner, the commissioner's
23 30 authorized representative, or any examiner appointed by the
23 31 commissioner for any statements made or conduct performed in
23 32 good faith while carrying out the provisions of this chapter.

23 33 b. A cause of action shall not arise, and liability shall
23 34 not be imposed, against any person for communicating or
23 35 delivering information or data to the commissioner or the
24 1 commissioner's authorized representative or examiner pursuant
24 2 to an examination made under this chapter, if the
24 3 communication or delivery was performed in good faith and
24 4 without fraudulent intent or the intent to deceive. This
24 5 paragraph does not abrogate or modify in any way any common
24 6 law or statutory privilege or immunity enjoyed by any person
24 7 identified in paragraph "a".

24 8 c. (1) A person identified in paragraph "a" or "b" shall
24 9 be entitled to an award of attorney fees and costs if the
24 10 person is the prevailing party in a civil cause of action for
24 11 libel, slander, or any other relevant tort arising out of
24 12 activities in carrying out the provisions of this chapter and
24 13 the party bringing the action was not substantially justified
24 14 in doing so.

24 15 (2) For purposes of subparagraph (1), a proceeding is
24 16 substantially justified if it has a reasonable basis in law or
24 17 fact at the time that it was initiated.

24 18 10. The commissioner may investigate a suspected
24 19 fraudulent life settlement act and a person engaged in the
24 20 business of life settlements.

24 21 11. The commission by rule may establish reasonable costs
24 22 for examinations imposed upon a person.

24 23 Sec. 8. NEW SECTION. 508G.8 ADVERTISING.

24 24 1. A broker or provider licensed pursuant to this chapter
24 25 may conduct or participate in an advertisement within this
24 26 state. Such advertisement shall comply with all statutes or
24 27 rules adopted by the commissioner that are applicable to life
24 28 insurers or to brokers, and providers licensed pursuant to
24 29 this chapter.

24 30 2. An advertisement shall be accurate, truthful, and not
24 31 misleading in fact or by implication.

24 32 3. A person shall not do any of the following:

24 33 a. Directly or indirectly market, advertise, solicit, or
24 34 otherwise promote the purchase of a life insurance policy for
24 35 the sole purpose of or with an emphasis on settling the life
25 1 insurance policy.

25 2 b. Use the words "free", "no cost", or words of similar
25 3 import in the marketing, advertising, soliciting, or otherwise
25 4 promoting of the purchase of a life insurance policy.

25 5 Sec. 9. NEW SECTION. 508G.9 DISCLOSURES TO OWNERS.

25 6 1. A provider shall provide in writing, a separate
25 7 disclosure document that is signed by the owner and provider,
25 8 to the owner not later than the date the life settlement
25 9 contract is signed by all parties.

25 10 a. The disclosure document shall include all of the
25 11 following information:

25 12 (1) That possible alternatives to life settlement
25 13 contracts exist including but not limited to accelerated
25 14 benefits offered by the issuer of the life insurance policy.

25 15 (2) That some or all of the proceeds of a life settlement
25 16 contract may be taxable and that assistance should be sought
25 17 from a professional tax advisor.

25 18 (3) That the proceeds from a life settlement contract
25 19 could be subject to the claims of creditors.

25 20 (4) That receipt of proceeds from a life settlement
25 21 contract may adversely affect the recipient's eligibility for
25 22 public assistance or other government benefits or entitlements

25 23 and that advice should be obtained from the appropriate
25 24 agencies.

25 25 (5) That the owner has a right to rescind a life
25 26 settlement contract within fifteen days of the date it is
25 27 executed by all parties and the owner has received the
25 28 disclosures required in this section. Recision, if exercised
25 29 by the owner, is effective only if both notice of the recision
25 30 is given, and the owner repays all proceeds and any premiums,
25 31 loans, and loan interest paid on account of the provider
25 32 within the recision period. If the insured dies during the
25 33 recision period, the contract shall be deemed to have been
25 34 rescinded subject to repayment by the owner or the owner's
25 35 estate of all proceeds and any premiums, loans, and loan
26 1 interest to the provider.

26 2 (6) That proceeds will be sent to the owner within three
26 3 business days after the provider has received the insurer or
26 4 group administrator's acknowledgment that ownership of the
26 5 life insurance policy or interest in the life insurance
26 6 certificate has been transferred and the beneficiary has been
26 7 designated in accordance with the terms of the life settlement
26 8 contract.

26 9 (7) That entering into a life settlement contract may
26 10 cause other rights or benefits, including conversion rights
26 11 and waiver of premium benefits that may exist under the life
26 12 insurance policy or certificate of a group life insurance
26 13 policy, to be forfeited by the owner and that assistance
26 14 should be sought from a professional financial advisor.

26 15 (8) (a) The amount and method of calculating the
26 16 compensation paid or to be paid to the broker, or any other
26 17 person acting for the owner in connection with the
26 18 transaction.

26 19 (b) As used in subparagraph subdivision (a), compensation
26 20 includes anything of value paid or given.

26 21 (9) The date by which the funds will be available to the
26 22 owner and the transmitter of the funds.

26 23 (10) That the commissioner requires delivery of a buyer's
26 24 guide or a similar consumer advisory package in the form
26 25 prescribed by the commissioner to owners during the
26 26 solicitation process.

26 27 (11) The following language:

26 28 "All medical, financial, or personal information solicited
26 29 or obtained by a provider or broker about an insured,
26 30 including the insured's identity or the identity of family
26 31 members, a spouse, or a significant other may be disclosed as
26 32 necessary to effect the life settlement contract between the
26 33 owner and provider. If you are asked to provide this
26 34 information, you will be asked to consent to the disclosure.
26 35 The information may be provided to someone who buys the policy
27 1 or provides funds for the purchase. You may be asked to renew
27 2 your permission to share information every two years."

27 3 (12) That the commissioner requires providers and brokers
27 4 to print separate signed fraud warnings on their applications
27 5 and on their life settlement contracts as follows:

27 6 "Any person who knowingly presents false information in an
27 7 application for a life insurance policy or life settlement
27 8 contract is guilty of a crime and may be subject to fines and
27 9 confinement in prison."

27 10 (13) That the insured may be contacted by either the
27 11 provider or broker or its authorized representative for the
27 12 purpose of determining the insured's health status or to
27 13 verify the insured's address. This contact is limited to once
27 14 every three months if the insured has a life expectancy of
27 15 more than one year, and no more than once per month if the
27 16 insured has a life expectancy of one year or less.

27 17 (14) The affiliation, if any, between the provider and the
27 18 issuer of the life insurance policy to be settled.

27 19 (15) That a broker represents exclusively the owner, and
27 20 not the insurer or the provider or any other person, and owes
27 21 a fiduciary duty to the owner, including a duty to act
27 22 according to the owner's instructions and in the best interest
27 23 of the owner.

27 24 (16) The name, address, and telephone number of the
27 25 provider.

27 26 (17) The name, business address, and telephone number of
27 27 the independent third-party escrow agent, and the fact that
27 28 the owner may inspect or receive copies of the relevant escrow
27 29 or trust agreements or documents.

27 30 (18) That a change of ownership could in the future limit
27 31 the insured's ability to purchase future insurance on the
27 32 insured's life because of a limit on the amount of coverage
27 33 insurers will issue on one life.

27 34 b. The written disclosure as provided in paragraph "a"
27 35 shall be conspicuously displayed in any life settlement
28 1 contract furnished to the owner by a provider including the
28 2 disclosure of any affiliations or contractual arrangements
28 3 between the provider and the broker.
28 4 2. A broker shall provide the owner and the provider with
28 5 at least the following disclosures not later than the date the
28 6 life settlement contract is signed by all parties. The
28 7 disclosures shall be conspicuously displayed in the life
28 8 settlement contract or in a separate document signed by the
28 9 owner and provide all of the following information:

28 10 a. The name, business address, and telephone number of the
28 11 broker.

28 12 b. A full, complete, and accurate description of all the
28 13 offers, counteroffers, acceptances, and rejections relating to
28 14 the proposed life settlement contract.

28 15 c. A written disclosure of any affiliation or contractual
28 16 arrangement between the broker and any person making an offer
28 17 in connection with the proposed life settlement contract.

28 18 d. The name of each broker who receives compensation and
28 19 the amount of compensation received by that broker, which
28 20 compensation includes anything of value paid or given to the
28 21 broker in connection with the life settlement contract.

28 22 e. (1) A complete reconciliation of the gross offer or
28 23 bid by the provider to the net amount of proceeds or value to
28 24 be received by the owner.

28 25 (2) For the purpose of subparagraph (1), "gross offer" or
28 26 "bid" means the total amount or value offered by the provider
28 27 for the purchase of one or more life insurance policies,
28 28 inclusive of commissions and fees.

28 29 f. The failure to provide the disclosures or rights
28 30 described in this section is deemed an unfair trade practice
28 31 pursuant to section 508G.17.

28 32 Sec. 10. NEW SECTION. 508G.10 DISCLOSURE TO INSURER.

28 33 Without limiting the ability of an insurer from assessing
28 34 the insurability of a policy applicant and determining whether
28 35 or not to issue the policy, and in addition to other questions
29 1 an insurer may lawfully pose to a life insurance applicant,
29 2 insurers may inquire in the application for insurance whether
29 3 the proposed owner intends to pay premiums with the assistance
29 4 of financing from a lender that will use the policy as
29 5 collateral to support the financing.

29 6 1. If, as described in the definition of life settlement
29 7 contract in section 508G.2, the loan provides funds which can
29 8 be used for a purpose other than paying for the premiums,
29 9 costs, and expenses associated with obtaining and maintaining
29 10 the life insurance policy and loan, the application shall be
29 11 rejected as a violation of the prohibited practices in section
29 12 508G.13.

29 13 2. If the financing does not violate section 508G.13 in
29 14 the manner provided in subsection 1, the insurer may do any of
29 15 the following:

29 16 a. Make a disclosure, including but not limited to such as
29 17 the following, to the applicant and the insured, either on the
29 18 application or an amendment to the application to be completed
29 19 no later than the delivery of the policy:

29 20 "If you have entered into a loan arrangement where the life
29 21 insurance policy is used as collateral, and the life insurance
29 22 policy does change ownership at some point in the future in
29 23 satisfaction of the loan, the following may be true:

29 24 A change of ownership could lead to a stranger owning an
29 25 interest in the insured's life.

29 26 A change of ownership could in the future limit your
29 27 ability to purchase future insurance on the insured's life
29 28 because of a limit on the amount of coverage insurers will
29 29 issue on one life.

29 30 Should there be a change of ownership and you wish to
29 31 obtain more insurance coverage on the insured's life in the
29 32 future, the insured's higher issue age, a change in health
29 33 status, or other factors may reduce the ability to obtain
29 34 coverage or may result in significantly higher premiums.

29 35 You should consult a professional advisor, since a change
30 1 in ownership in satisfaction of the loan may result in tax
30 2 consequences to the owner, depending on the structure of the
30 3 loan."

30 4 b. Require certifications, such as the following, from the
30 5 applicant or the insured:

30 6 "I have not entered into any agreement or arrangement
30 7 providing for the future sale of this life insurance policy.

30 8 My loan arrangement for this life insurance policy provides
30 9 funds sufficient to pay for some or all of the premiums,

30 10 costs, and expenses associated with obtaining and maintaining
30 11 my life insurance policy, but I have not entered into any
30 12 agreement by which I am to receive consideration in exchange
30 13 for procuring this life insurance policy.

30 14 The borrower has an insurable interest in the insured."

30 15 Sec. 11. NEW SECTION. 508G.11 GENERAL RULES.

30 16 1. A provider entering into a life settlement contract
30 17 with an owner of a life insurance policy, where the insured is
30 18 terminally ill or chronically ill, shall first obtain all of
30 19 the following:

30 20 a. If the owner is the insured, a written statement from a
30 21 licensed attending physician that the owner is of sound mind
30 22 and under no constraint or undue influence to enter into a
30 23 life settlement contract.

30 24 b. A document in which the insured consents to the release
30 25 of the owner's medical records to a provider, broker, or
30 26 insurance producer and, if the life insurance policy was
30 27 issued less than two years from the date of application for a
30 28 life settlement contract, to the insurance company that issued
30 29 the policy.

30 30 2. An insurer shall respond to a request for verification
30 31 of coverage submitted by a provider, broker, or life insurance
30 32 producer not later than thirty calendar days of the date the
30 33 request is received. The request for verification of coverage
30 34 must be made on a form approved by the commissioner. The
30 35 insurer shall complete and issue the verification of coverage
31 1 or indicate in which respects it is unable to respond. In its
31 2 response, the insurer shall indicate whether, based on the
31 3 medical evidence and documents provided, the insurer intends
31 4 to pursue an investigation at this time regarding the validity
31 5 of the life insurance policy.

31 6 3. Before or at the time of the execution of the life
31 7 settlement contract, the provider shall obtain a witnessed
31 8 document in which the owner consents to the life settlement
31 9 contract, represents that the owner has a full and complete
31 10 understanding of the life settlement contract, that the owner
31 11 has a full and complete understanding of the benefits of the
31 12 life insurance policy, acknowledges that the owner is entering
31 13 into the life settlement contract freely and voluntarily, and,
31 14 for persons with a terminal or chronic illness or condition,
31 15 acknowledges that the insured has a terminal or chronic
31 16 illness and that the terminal or chronic illness or condition
31 17 was diagnosed after the life insurance policy was issued.

31 18 4. The insurer shall not unreasonably delay effecting
31 19 change of ownership or beneficiary with any life settlement
31 20 contract lawfully entered into in this state or with a
31 21 resident of this state.

31 22 5. If a broker or life insurance producer performs any
31 23 activities required of the provider, the provider is deemed to
31 24 have fulfilled the requirements of this section.

31 25 6. If a broker performs verification of coverage
31 26 activities required of the provider, the provider is deemed to
31 27 have fulfilled the requirements of section 508G.9, subsection
31 28 1.

31 29 7. Within twenty days after an owner executes the life
31 30 settlement contract, a provider shall give written notice to
31 31 the insurer that issued the life insurance policy that the
31 32 policy has become subject to a life settlement contract. The
31 33 notice shall be accompanied by the documents required by
31 34 section 508G.10, subsection 1, paragraph "b".

31 35 8. All medical information solicited or obtained by any
32 1 licensee shall be subject to the applicable provision of state
32 2 law relating to confidentiality of medical information, if not
32 3 otherwise provided in this chapter.

32 4 9. A life settlement contract entered into in this state
32 5 shall provide that the owner may rescind the contract on or
32 6 before fifteen days after the date it is executed by all
32 7 parties. Rescission, if exercised by the owner, is effective
32 8 only if both notice of the rescission is given, and the owner
32 9 repays all proceeds and any premiums, loans, and loan interest
32 10 paid on account of the provider within the rescission period.
32 11 If the insured dies during the rescission period, the contract
32 12 shall be deemed to have been rescinded subject to repayment by
32 13 the owner or the owner's estate of all proceeds and any
32 14 premiums, loans, and loan interest to the provider.

32 15 10. Within three business days after receipt from the
32 16 owner of documents to effect the transfer of the insurance
32 17 policy, the provider shall pay the proceeds of the settlement
32 18 to a trust or escrow account managed by a trustee or escrow
32 19 agent in a state or federally chartered financial institution
32 20 pending acknowledgment of the transfer by the issuer of the

32 21 policy. The trustee or escrow agent shall be required to
32 22 transfer the proceeds due to the owner within three business
32 23 days of acknowledgment of the transfer from the insurer.

32 24 11. A failure to tender life settlement contract proceeds
32 25 to the owner by the date disclosed to the owner renders the
32 26 contract voidable by the owner for lack of consideration until
32 27 the time the proceeds are tendered to and accepted by the
32 28 owner. A failure to give written notice of the right of
32 29 rescission shall toll the right of rescission until thirty days
32 30 after the written notice of the right of rescission has been
32 31 given.

32 32 12. Any fee paid by a provider, party, individual, or an
32 33 owner to a broker in exchange for services provided to the
32 34 owner pertaining to a life settlement contract shall be
32 35 computed as a percentage of the offer obtained, not the face
33 1 value of the life insurance policy. This section shall not be
33 2 construed as prohibiting a broker from reducing the broker's
33 3 fee below this percentage if the broker so chooses.

33 4 13. A broker shall disclose to the owner anything of value
33 5 paid or given to the broker, which relates to a life
33 6 settlement contract.

33 7 14. A person shall not at any time prior to, or at the
33 8 time of, the application for, or issuance of, a life insurance
33 9 policy, or during a two-year period commencing with the date
33 10 of issuance of the life insurance policy, enter into a life
33 11 settlement contract regardless of the date the compensation is
33 12 to be provided and regardless of the date the assignment,
33 13 transfer, sale, devise, bequest, or surrender of the policy is
33 14 to occur. This prohibition shall not apply if the owner
33 15 certifies to the provider that any of the following applies:

33 16 a. The life insurance policy was issued upon the owner's
33 17 exercise of conversion rights arising out of a group or
33 18 individual life insurance policy, provided the total of the
33 19 time covered under the conversion policy plus the time covered
33 20 under the prior life insurance policy is at least twenty-four
33 21 months. The time covered under a group life insurance policy
33 22 must be calculated without regard to a change in insurers,
33 23 provided the coverage has been continuous and under the same
33 24 group sponsorship.

33 25 b. The owner submits independent evidence to the provider
33 26 that one or more of the following conditions have been met
33 27 within the two-year period:

33 28 (1) The owner or insured is terminally ill or chronically
33 29 ill.

33 30 (2) The owner or insured disposes of the owner's or
33 31 insured's ownership interests in a closely held corporation,
33 32 pursuant to the terms of a buyout or other similar agreement
33 33 in effect at the time the life insurance policy was initially
33 34 issued.

33 35 (3) The owner's spouse dies.

34 1 (4) The owner divorces the owner's spouse.

34 2 (5) The owner retires from full-time employment.

34 3 (6) The owner becomes physically or mentally disabled and
34 4 a physician determines that the disability prevents the owner
34 5 from maintaining full-time employment.

34 6 (7) A final order, judgment, or decree is entered by a
34 7 court of competent jurisdiction, on the application of a
34 8 creditor of the owner, adjudicating the owner bankrupt or
34 9 insolvent, or approving a petition seeking reorganization of
34 10 the owner or appointing a receiver, trustee, or liquidator to
34 11 all or a substantial part of the owner's assets.

34 12 c. Copies of the independent evidence required by
34 13 subsection 14, paragraph "b", shall be submitted to the
34 14 insurer when the provider submits a request to the insurer for
34 15 verification of coverage. The copies shall be accompanied by
34 16 a letter of attestation from the provider that the copies are
34 17 true and correct copies of the documents received by the
34 18 provider. This section does not prohibit an insurer from
34 19 exercising its right to contest the validity of any life
34 20 insurance policy.

34 21 d. If the provider submits to the insurer a copy of
34 22 independent evidence provided for in paragraph "b",
34 23 subparagraph (1), when the provider submits a request to the
34 24 insurer to effect the transfer of the policy to the provider,
34 25 the copy is deemed to establish that the life settlement
34 26 contract satisfies the requirements of this section.

34 27 Sec. 12. NEW SECTION. 508G.12 AUTHORITY TO ADOPT RULES
34 28 == CONFLICT OF LAWS.

34 29 1. The commissioner may adopt rules implementing this
34 30 chapter and regulating the activities and relationships of
34 31 providers, brokers, insurers, and their agents, pursuant to

34 32 chapter 17A.

34 33 2. For conflict of laws, all of the following shall apply:

34 34 a. If there is more than one owner on a single policy, and
34 35 the owners are residents of different states, the life
35 1 settlement contract shall be governed by the law of the state
35 2 in which the owner having the largest percentage ownership
35 3 resides or, if the owners hold equal ownership, the state of
35 4 residence of one owner agreed upon in writing by all of the
35 5 owners. The law of the state of the insured shall govern in
35 6 the event that equal owners fail to agree in writing upon a
35 7 state of residence for jurisdictional purposes.

35 8 b. A provider from this state who enters into a life
35 9 settlement contract with an owner who is a resident of another
35 10 state that has enacted statutes or adopted regulations
35 11 governing life settlement contracts shall be governed in the
35 12 effectuation of that life settlement contract by the statutes
35 13 and regulations of the owner's state of residence. If the
35 14 state in which the owner is a resident has not enacted
35 15 statutes or regulations governing life settlement contracts,
35 16 the provider shall give the owner notice that neither state
35 17 regulates the transaction into which the owner is entering.
35 18 For transactions in those states, however, the provider shall
35 19 maintain all records required as if the transactions were
35 20 executed in the state of residence. The forms used in those
35 21 states need not be approved by the commissioner.

35 22 c. If there is a conflict in the laws that apply to an
35 23 owner and a purchaser in any individual transaction, the laws
35 24 of the state that apply to the owner shall take precedence and
35 25 the provider shall comply with those laws.

35 26 Sec. 13. NEW SECTION. 508G.13 PROHIBITED PRACTICES.

35 27 1. A person shall not do any of the following:

35 28 a. Enter into a life settlement contract if the person
35 29 knows or reasonably should have known that the life insurance
35 30 policy was obtained by means of a false, deceptive, or
35 31 misleading application for such life insurance policy.

35 32 b. Engage in any transaction, practice, or course of
35 33 business if such person knows or reasonably should have known
35 34 that the intent was to avoid the notice requirements of this
35 35 chapter.

36 1 c. Engage in any fraudulent act or practice in connection
36 2 with any transaction relating to any settlement involving an
36 3 owner who is a resident of this state.

36 4 d. Issue, solicit, market, or otherwise promote the
36 5 purchase of a life insurance policy for the purpose of or with
36 6 an emphasis on settling the life insurance policy.

36 7 e. Enter into a premium finance agreement with any person
36 8 or agency, or any person affiliated with such person or
36 9 agency, pursuant to which such person or agency shall receive
36 10 any proceeds, fees, or other consideration, directly or
36 11 indirectly, from the life insurance policy or owner of the
36 12 life insurance policy or any other person with respect to the
36 13 premium finance agreement or any life settlement contract or
36 14 other transaction related to such life insurance policy that
36 15 are in addition to the amounts required to pay the principal,
36 16 interest, and service charges related to life insurance policy
36 17 premiums pursuant to the premium finance agreement or
36 18 subsequent sale of such agreement. However, any payments,
36 19 charges, fees, or other amounts in addition to the amounts
36 20 required to pay the principal, interest, and service charges
36 21 related to life insurance policy premiums paid under the
36 22 premium finance agreement shall be remitted to the original
36 23 owner of the life insurance policy or to the original owner's
36 24 estate if the original owner is not living at the time of the
36 25 determination of the overpayment.

36 26 f. With respect to any life settlement contract or life
36 27 insurance policy and a broker, knowingly solicit an offer
36 28 from, effectuate a life settlement contract with, or make a
36 29 sale to any provider, financing entity, or related provider
36 30 trust that is controlling, controlled by, or under common
36 31 control with such broker.

36 32 g. With respect to any life settlement contract or life
36 33 insurance policy and a provider, knowingly enter into a life
36 34 settlement contract with an owner, if, in connection with such
36 35 life settlement contract, anything of value will be paid to a
37 1 broker that is controlling, controlled by, or under common
37 2 control with such provider or the financing entity or related
37 3 provider trust that is involved in such life settlement
37 4 contract.

37 5 h. With respect to a provider, enter into a life
37 6 settlement contract unless the life settlement promotional,
37 7 advertising, and marketing materials, as may be adopted by

37 8 rule, have been filed with the commissioner. In no event
37 9 shall any marketing materials expressly reference that the
37 10 insurance is free for any period of time. The inclusion of
37 11 any reference in the marketing materials that would cause an
37 12 owner to reasonably believe that the insurance is free for any
37 13 period of time shall be considered a violation of this
37 14 chapter.

37 15 i. With respect to any life insurance producer, insurer,
37 16 broker, or provider, make any statement or representation to
37 17 the applicant or policyholder in connection with the sale or
37 18 financing of a life insurance policy to the effect that the
37 19 insurance is free or without cost to the policyholder for any
37 20 period of time unless provided in the policy.

37 21 2. A violation of this section shall be deemed a
37 22 fraudulent life settlement act.

37 23 Sec. 14. NEW SECTION. 508G.14 FRAUD PREVENTION AND
37 24 CONTROL.

37 25 1. This subsection applies to a fraudulent life settlement
37 26 act, interference, and convicted felons as follows:

37 27 a. A person shall not commit a fraudulent life settlement
37 28 act.

37 29 b. A person shall not knowingly and intentionally
37 30 interfere with the enforcement of the provisions of this
37 31 chapter or an investigation of suspected or actual violations
37 32 of this chapter.

37 33 c. A person in the business of life settlements shall not
37 34 knowingly or intentionally permit any person convicted of a
37 35 felony involving dishonesty or breach of trust to participate
38 1 in the business of life settlements.

38 2 2. This subsection applies to required fraud warnings as
38 3 follows:

38 4 a. A life settlement contract and an application for a
38 5 life settlement contract, regardless of the form of
38 6 transmission, shall contain the following statement or a
38 7 substantially similar statement:

38 8 "Any person who knowingly presents false information in an
38 9 application for a life insurance policy or life settlement
38 10 contract is guilty of a crime and may be subject to fines and
38 11 confinement in prison."

38 12 b. The lack of a statement as required in paragraph "a"
38 13 does not constitute a defense in any prosecution for a
38 14 fraudulent life settlement act.

38 15 3. This section applies to the mandatory reporting of
38 16 fraudulent life settlement acts as follows:

38 17 a. Any person engaged in the business of life settlements
38 18 having knowledge or a reasonable belief that a fraudulent life
38 19 settlement act is being, will be, or has been committed shall
38 20 provide to the commissioner the information required by, and
38 21 in a manner prescribed by, the commissioner.

38 22 b. Any other person having knowledge or a reasonable
38 23 belief that a fraudulent life settlement act is being, will
38 24 be, or has been committed may provide to the commissioner the
38 25 information required by, and in a manner prescribed by, the
38 26 commissioner.

38 27 4. This subsection applies to immunity from liability as
38 28 follows:

38 29 a. Civil liability shall not be imposed on and a cause of
38 30 action shall not arise from a person's furnishing information
38 31 concerning suspected, anticipated, or a completed fraudulent
38 32 life settlement act, if the information is provided to or
38 33 received from any of the following:

38 34 (1) The commissioner or the commissioner's employees,
38 35 agents, or representatives.

39 1 (2) Federal, state, or local law enforcement or regulatory
39 2 officials or their employees, agents, or representatives.

39 3 (3) A person involved in the prevention and detection of
39 4 fraudulent life settlement acts or that person's agents,
39 5 employees, or representatives.

39 6 (4) Any regulatory body or its employees, agents, or
39 7 representatives, overseeing life insurance, life settlements,
39 8 securities, or investment fraud.

39 9 (5) The life insurer that issued the life insurance policy
39 10 covering the life of the insured.

39 11 (6) The licensee and any agents, employees, or
39 12 representatives.

39 13 b. Paragraph "a" shall not apply to a statement made with
39 14 actual malice. In an action brought against a person for
39 15 filing a report or furnishing other information concerning a
39 16 fraudulent life settlement act, the party bringing the action
39 17 shall plead specifically any allegation that paragraph "a"
39 18 does not apply because the person filing the report or

39 19 furnishing the information did so with actual malice.

39 20 c. (1) A person identified in paragraph "a" shall be
39 21 entitled to an award of attorney fees and costs if the person
39 22 is the prevailing party in a civil cause of action for libel,
39 23 slander, or any other relevant tort arising out of activities
39 24 in carrying out the provisions of this chapter and the party
39 25 bringing the action was not substantially justified in doing
39 26 so.

39 27 (2) For purposes of this paragraph "c", a proceeding is
39 28 substantially justified if it had a reasonable basis in law or
39 29 fact at the time that it was initiated.

39 30 d. This section does not abrogate or modify common law or
39 31 statutory privileges or immunities enjoyed by a person
39 32 described in paragraph "a".

39 33 5. This subsection applies to confidentiality as follows:

39 34 a. The documents and evidence provided pursuant to
39 35 subsection 4 or obtained by the commissioner in an
40 1 investigation of a suspected or actual fraudulent life
40 2 settlement act shall be privileged and confidential and shall
40 3 not be subject to chapter 22, and shall not be subject to
40 4 discovery or subpoena in a civil or criminal action.

40 5 b. Paragraph "a" does not prohibit a release by the
40 6 commissioner of documents and evidence obtained in an
40 7 investigation of a suspected or actual fraudulent life
40 8 settlement act to any of the following:

40 9 (1) In administrative or judicial proceedings to enforce
40 10 laws administered by the commissioner.

40 11 (2) To federal, state, or local law enforcement or
40 12 regulatory agencies, to an organization established for the
40 13 purpose of detecting and preventing fraudulent life settlement
40 14 acts or to the national association of insurance
40 15 commissioners.

40 16 (3) At the discretion of the commissioner, to a person in
40 17 the business of life settlements that is aggrieved by a
40 18 fraudulent life settlement act.

40 19 c. Release of documents and evidence under paragraph "b"
40 20 does not abrogate or modify the privilege granted in paragraph
40 21 "a".

40 22 6. This chapter shall not do any of the following:

40 23 a. Preempt the authority or relieve the duty of other law
40 24 enforcement or regulatory agencies to investigate, examine, or
40 25 prosecute suspected violations of law.

40 26 b. Preempt, supersede, or limit any provision of any state
40 27 securities law or any rule, order, or notice issued under this
40 28 chapter.

40 29 c. Prevent or prohibit a person from voluntarily
40 30 disclosing information concerning life settlement fraud to a
40 31 law enforcement or regulatory agency other than the
40 32 commissioner.

40 33 d. Limit the powers granted elsewhere by the laws of this
40 34 state to the commissioner or the insurance division, or an
40 35 insurance fraud unit, to investigate and examine possible
41 1 violations of law and to take appropriate action against
41 2 wrongdoers.

41 3 7. This subsection applies to life settlement antifraud
41 4 initiatives as follows:

41 5 a. A provider or broker shall have in place antifraud
41 6 initiatives reasonably calculated to detect, prosecute, and
41 7 prevent a fraudulent life settlement act. At the discretion
41 8 of the commissioner, the commissioner may order, or a licensee
41 9 may request and the commissioner may grant, such modifications
41 10 of the following required initiatives as necessary to ensure
41 11 an effective antifraud program. The modifications may be more
41 12 or less restrictive than the required initiatives so long as
41 13 the modifications may reasonably be expected to accomplish the
41 14 purpose of this section. The antifraud initiatives shall
41 15 include all of the following:

41 16 (1) Fraud investigators, who may be provider or broker
41 17 employees or independent contractors.

41 18 (2) An antifraud plan, which shall be submitted to the
41 19 commissioner. The antifraud plan shall include but not be
41 20 limited to any of the following:

41 21 (a) A description of the procedures for detecting and
41 22 investigating possible fraudulent life settlement acts and
41 23 procedures for resolving material inconsistencies between
41 24 medical records and insurance applications.

41 25 (b) A description of the procedures for reporting possible
41 26 fraudulent life settlement acts to the commissioner.

41 27 (c) A description of the plan for antifraud education and
41 28 training of underwriters and other personnel.

41 29 (d) A description or chart outlining the organizational

41 30 arrangement of the antifraud personnel who are responsible for
41 31 the investigation and reporting of possible fraudulent life
41 32 settlement acts and investigating unresolved material
41 33 inconsistencies between medical records and insurance
41 34 applications.

41 35 b. Antifraud plans submitted to the commissioner shall be
42 1 privileged and confidential, shall not be subject to chapter
42 2 22, and shall not be subject to discovery or subpoena in a
42 3 civil or criminal action.

42 4 Sec. 15. NEW SECTION. 508G.15 INJUNCTIONS == CIVIL
42 5 REMEDIES == CEASE AND DESIST.

42 6 1. In addition to the penalties and other enforcement
42 7 provisions of this chapter, if any person violates this
42 8 chapter or any rule implementing this chapter, the
42 9 commissioner may seek an injunction in a court of competent
42 10 jurisdiction in the county where the person resides or has a
42 11 principal place of business and may apply for temporary and
42 12 permanent orders that the commissioner determines necessary to
42 13 restrain the person from further committing the violation.

42 14 2. A person damaged by an act of another person in
42 15 violation of this chapter or any rule implementing or
42 16 administering this chapter, may bring a civil action for
42 17 damages against the person committing the violation in a court
42 18 of competent jurisdiction.

42 19 3. The commissioner may issue a cease and desist order
42 20 upon a person who violates any provision of this chapter, any
42 21 rule adopted or order issued by the commissioner, or any
42 22 written agreement entered into with the commissioner.

42 23 4. If the commissioner finds that such an action presents
42 24 an immediate danger to the public and requires an immediate
42 25 final order, the commissioner may issue an emergency cease and
42 26 desist order reciting with particularity the facts underlying
42 27 such findings. The emergency cease and desist order is
42 28 effective immediately upon service of a copy of the order on
42 29 the respondent and remains effective for ninety days. If the
42 30 commissioner begins nonemergency cease and desist proceedings
42 31 under subsection 1, the emergency cease and desist order
42 32 remains effective, absent an order by a court of competent
42 33 jurisdiction pursuant to chapter 17A. In the event of a
42 34 willful violation of this chapter, the court may award
42 35 statutory damages in addition to actual damages in an
43 1 additional amount up to three times the actual damage award.
43 2 The provisions of this chapter shall not be waived by
43 3 agreement. A choice of law provision shall not be utilized to
43 4 prevent the application of this chapter to any life settlement
43 5 in which a party to the life settlement is a resident of this
43 6 state.

43 7 Sec. 16. NEW SECTION. 508G.16 PENALTIES.

43 8 1. It is a violation of this chapter for any person,
43 9 provider, broker, or any other party related to the business
43 10 of life settlements, to commit a fraudulent life settlement
43 11 act.

43 12 2. For criminal liability purposes, a person that commits
43 13 a fraudulent life settlement act is guilty of a class "D"
43 14 felony.

43 15 3. In addition to the penalty provided in subsection 2,
43 16 the commissioner may establish, assess, and collect a civil
43 17 penalty not exceeding ten thousand dollars for each violation
43 18 of this chapter, including a person or the person's employee
43 19 licensed pursuant to this chapter, who commits a fraudulent
43 20 life settlement act or violates any other provision of this
43 21 chapter and penalties shall be deposited into the general fund
43 22 of the state.

43 23 4. The license of a person licensed under this chapter
43 24 that commits a fraudulent life settlement act shall be revoked
43 25 for a period of five years.

43 26 Sec. 17. NEW SECTION. 508G.17 UNFAIR TRADE PRACTICES.

43 27 A violation of sections 508G.3 through 508G.16 by a
43 28 provider, broker, or insurer shall be considered an unfair
43 29 trade practice pursuant to chapter 507B.

43 30 DIVISION II
43 31 COORDINATING CHANGES

43 32 Sec. 18. Section 502.102, subsection 17, paragraph d, Code
43 33 2007, is amended to read as follows:

43 34 d. With respect to a ~~viatical life settlement investment~~
43 35 contract as defined in section 508G.2, "issuer" means a person
44 1 involved in creating, transferring, or selling to an investor
44 2 any interest in such a contract, including but not limited to
44 3 fractional or pooled interests, but does not include an agent
44 4 or a broker-dealer.

44 5 Sec. 19. Section 502.102, subsection 28, paragraph f, Code

44 6 2007, is amended to read as follows:

44 7 f. It includes a ~~viatical life settlement investment~~
44 8 contract as defined in section 508G.2.

44 9 Sec. 20. Section 502.102, subsection 31A, Code 2007, is
44 10 amended by striking the subsection.

44 11 Sec. 21. Section 502.201, subsection 9E, Code 2007, is
44 12 amended to read as follows:

44 13 9E. ~~VIATICAL LIFE SETTLEMENT CONTRACTS.~~ A viatical life
44 14 settlement contract as defined in section 508.102, or
44 15 fractional or pooled interest in such contract, provided any
44 16 of the following conditions are satisfied:

44 17 a. The assignment, transfer, sale, devise, or bequest of a
44 18 death benefit of a life insurance policy or contract is made
44 19 by the ~~viator to owner of a life insurance policy to an~~
44 20 insurance company as provided under ~~Title XIII, subtitle 1~~
44 21 chapter 508G.

44 22 b. The assignment, transfer, sale, devise, or bequest of a
44 23 life insurance policy or contract, for any value less than the
44 24 expected death benefit, is made by the ~~viator owner of the~~
44 25 life insurance policy to a family member or other person who
44 26 enters into no more than one such agreement in a calendar
44 27 year.

44 28 c. A life insurance policy or contract is assigned to a
44 29 bank, savings bank, savings and loan association, credit
44 30 union, or other licensed lending institution as collateral for
44 31 a loan.

44 32 d. Accelerated benefits are exercised as provided in the
44 33 life insurance policy or contract and consistent with
44 34 applicable law.

44 35 e. The assignment, transfer, sale, devise, or bequest of
45 1 the death benefit or ownership of a life insurance policy or
45 2 contract made by the policyholder or contract owner to a
45 3 ~~viatical settlement provider pursuant to a life settlement~~
45 4 contract, if the viatical life settlement transaction contract
45 5 complies with chapter 508E 508G, including rules adopted
45 6 pursuant to that chapter.

45 7 Sec. 22. Chapter 508E, Code 2007, is repealed.

45 8 DIVISION III
45 9 TRANSITIONAL PROVISIONS

45 10 Sec. 23. TRANSACTIONS OF BUSINESS.

45 11 1. A provider lawfully transacting business in this state
45 12 prior to July 1, 2009, may continue to do so pending approval
45 13 or disapproval of that person's application for a license as
45 14 long as the application is filed with the commissioner not
45 15 later than thirty days after publication by the commissioner
45 16 of an application form and instructions for licensure of
45 17 providers. If the publication of the application form and
45 18 instructions is made prior to July 1, 2009, the filing of the
45 19 application shall not be later than thirty days after July 1,
45 20 2009. During the time that such an application is pending
45 21 with the commissioner, the applicant may use any form of life
45 22 settlement contract that has been filed with the commissioner
45 23 pending approval of the application, provided that such form
45 24 is otherwise in compliance with the provisions of this Act.
45 25 Any person transacting business in this state under this
45 26 provision shall be obligated to comply with all other
45 27 requirements of this Act.

45 28 2. A person who has lawfully negotiated life settlement
45 29 contracts between any owner residing in this state and one or
45 30 more providers for at least one year immediately prior to July
45 31 1, 2009, may continue to do so pending approval or disapproval
45 32 of that person's application for a license as long as the
45 33 application is filed with the commissioner not later than
45 34 thirty days after publication by the commissioner of an
45 35 application form and instructions for licensure of brokers.
46 1 If the publication of the application form and instructions is
46 2 prior to July 1, 2009, the filing of the application shall not
46 3 be later than thirty days after July 1, 2009. Any person
46 4 transacting business in this state under this provision shall
46 5 be obligated to comply with all other requirements of this
46 6 Act.

46 7 Sec. 24. EFFECTIVE DATE. This Act takes effect July 1,
46 8 2009.

46 9 EXPLANATION

46 10 This bill is based on model legislation adopted by the
46 11 national conference of insurance legislators regulating life
46 12 settlement arrangements, by the commissioner of insurance
46 13 (commissioner). A life insurance settlement is a transaction
46 14 involving the sale of a life insurance policy (policy) issued
46 15 by a life insurance company (insurer) before the policy
46 16 matures.

46 17 DIVISION I == LIFE SETTLEMENTS ACT. The bill provides for
46 18 a new Code chapter referred to as the "Life Settlements Act".
46 19 It provides for the regulation of a life settlement contract
46 20 which is a written agreement executed by a policy owner
46 21 (owner) and another party (provider) establishing the terms
46 22 under which a life insurance company (producer) pays the
46 23 provider the policy's expected death benefit upon the policy's
46 24 maturity. The contract may be negotiated by another party
46 25 (broker) on behalf of the owner and who owes a fiduciary duty
46 26 to the owner. The rights of the proceeds may be transferred
46 27 to another party (purchaser) presumably as an investment.
46 28 LICENSING. The bill provides that a provider or broker
46 29 must be licensed by the commissioner. It provides for
46 30 application procedures, imposes requirements on producers,
46 31 including when acting as a broker, provides for the renewal of
46 32 licenses, and provides for the establishment and imposition of
46 33 licensing fees, and for the imposition of disciplinary action
46 34 for a broker or provider who fails to comply with the bill's
46 35 requirements, including license, suspension, revocation, or a
47 1 failure to renew.

47 2 CONTRACT REQUIREMENTS. The bill provides for the form of
47 3 life settlement contracts including for the filing of
47 4 contracts with the commissioner.

47 5 REPORTING REQUIREMENTS. The bill requires a provider to
47 6 periodically report information regarding life settlement
47 7 contracts to the commissioner, including documentation
47 8 regarding proceeds received under such contracts. It provides
47 9 a civil penalty not to exceed \$25,000 for a continuous delay
47 10 in reporting. The bill also provides confidentiality
47 11 provisions.

47 12 EXAMINATION REQUIREMENTS. The bill authorizes the
47 13 commissioner to conduct examinations of brokers and providers
47 14 who are applying for a license or who are doing business under
47 15 a license. It provides for the confidentiality of information
47 16 contained in certain records subject to examination, the
47 17 retention of records by brokers and providers, the appointment
47 18 of examiners, and the payment of examination fees. The bill
47 19 also authorizes the commissioner to issue subpoenas and
47 20 administer oaths and to seek judicial orders compelling
47 21 persons to comply with orders compelling the production of
47 22 information. The bill provides for the production of
47 23 examination reports to be filed with the commissioner, and for
47 24 the confidentiality of information gathered in the course of
47 25 an examination. The bill prohibits an examiner from having a
47 26 conflict of interest and provides for their immunity from
47 27 liability.

47 28 ADVERTISING. The bill regulates how a broker or provider
47 29 may advertise their business, and requires that advertising be
47 30 accurate and truthful.

47 31 DISCLOSURE. The bill requires that a provider furnish an
47 32 owner with a written disclosure statement prior to executing a
47 33 contract. The disclosure statement must describe alternatives
47 34 to the contract, that proceeds may be taxable, subject to the
47 35 claims of creditors, and affect eligibility for public
48 1 assistance. The owner is provided rights to terminate the
48 2 contract upon the repayment of any proceeds received under the
48 3 contract. The disclosure statement must describe the amount
48 4 and the method of calculating compensation to be paid, and
48 5 when the proceeds are to be paid. The disclosure must include
48 6 fraud warnings. The bill also requires a broker to provide an
48 7 owner and provider with a written disclosure statement,
48 8 describing the broker and information regarding negotiations
48 9 by the broker acting on behalf of the owner.

48 10 INSURER MAY REQUIRE INFORMATION. The bill provides that an
48 11 insurer may require information by an applicant for life
48 12 insurance regarding the payment of premiums, and the use of
48 13 financing to pay for the premiums, and warnings regarding an
48 14 applicant's future ability to acquire insurance.

48 15 PROVIDER MAY REQUIRE INFORMATION. The bill provides that a
48 16 provider may require that an owner furnish information
48 17 including information regarding the owner's health status and
48 18 whether the owner is terminally ill or chronically ill. In
48 19 that case, the owner must provide medical evidence regarding
48 20 the owner's mental condition, provide a release of the owner's
48 21 medical records, a verification of coverage, and a signed
48 22 statement that verifies the owner understands the nature of
48 23 the contract. The bill requires that the provider may seek
48 24 assurances that the insurer will not unreasonably delay
48 25 effecting a change in ownership. The information provided to
48 26 a provider is considered confidential.

48 27 RESTRICTIONS. The bill prohibits a person from entering

48 28 into a life settlement contract prior to applying for a life
48 29 insurance policy, unless the policy was issued as a group
48 30 policy or a converted policy, or extraordinary circumstances
48 31 exist, including that the owner is terminally ill or
48 32 chronically ill, or there is a material change in the person's
48 33 financial or personal life (e.g., the owner's spouse dies, the
48 34 owner divorces their spouse, the owner retires, or the owner
48 35 becomes mentally or physically disabled). The change must be
49 1 documented and submitted to the insurer.

49 2 RULEMAKING AND CONFLICT OF LAW. The bill authorizes the
49 3 commissioner to adopt rules necessary to implement and
49 4 administer the bill's provisions. It also provides rules when
49 5 there is a conflict of laws between this state and another
49 6 state.

49 7 PROHIBITED PRACTICES == FRAUD. The bill provides for a
49 8 number of prohibited practices, including prohibiting a person
49 9 from entering into a contract under false, deceptive, or
49 10 misleading conditions, or engaging in fraud. The bill
49 11 prohibits a person from committing a fraudulent life
49 12 settlement act in a manner that deprives another person of
49 13 property by false material information, or concealing material
49 14 information which concerns a material fact. The bill
49 15 prohibits a person from entering into a premium finance
49 16 agreement with a person under which payment is made in
49 17 addition to amounts required to pay principal, interest, and
49 18 service charges related to a life insurance premium. The bill
49 19 prohibits a person from interfering with the enforcement of
49 20 the bill's provisions. It also requires the mandatory
49 21 reporting of fraudulent life settlement acts, and provides for
49 22 the confidentiality of information submitted as part of an
49 23 investigation. The bill requires providers and brokers to
49 24 provide a number of antifraud provisions, including the
49 25 submission of an antifraud plan to the commissioner.

49 26 ENFORCEMENT. The bill authorizes the commissioner to take
49 27 actions necessary to enforce the bill's provisions, including
49 28 seeking injunctive relief. The bill allows a person who is
49 29 injured by a violation of the bill's provisions to bring a
49 30 civil action for damages. The bill authorizes the
49 31 commissioner to take emergency action if necessary, including
49 32 by issuing an order to immediately cease and desist from a
49 33 prohibited practice.

49 34 PENALTIES. The bill provides that a person who commits a
49 35 fraudulent life settlement act is guilty of a class "D"
50 1 felony. A class "D" felony is punishable by confinement for
50 2 no more than five years and a fine of at least \$750 but not
50 3 more than \$7,500.

50 4 The commissioner may also establish, impose, and assess
50 5 civil penalties for violations of the bill's provisions which
50 6 cannot exceed \$10,000 for a single offense.

50 7 DIVISION II == COORDINATING CHANGES. The bill amends Code
50 8 chapter 502, Iowa's so-called "blue sky law", by providing
50 9 that a life settlement contract is not a security. The bill
50 10 substitutes the term "life settlement contract" for "viatical
50 11 contract" which is governed under Code chapter 508E. The bill
50 12 repeals that Code chapter.

50 13 DIVISION III == TRANSITIONAL PROVISIONS. The bill
50 14 preserves certain life settlement arrangements by persons who
50 15 were transacting business in this state prior to the effective
50 16 date of the bill, subject to approval by the commissioner.

50 17 EFFECTIVE DATE. The bill takes effect on July 1, 2009.

50 18 LSB 5896SV 82

50 19 da/rj/24